

MONTANA LEGISLATIVE HISTORY

Chapter 19 19 85

Bill H 32 S _____

Original bill & history ☒ c

H. Committee on Business

Hearing Date(s) 1-8 ☒ c

_____ c

_____ c

_____ c

Date Out 1-29 ☒ c

S. Committee on Taxation

Hearing Date(s) 1-29 ☒ c

_____ c

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_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

2/20 SIGNED BY PRESIDENT

2/21 TRANSMITTED TO GOVERNOR

2/22 SIGNED BY GOVERNOR
CHAPTER NUMBER 35 EFFECTIVE DATE: 2/22/85HB 31 INTRODUCED BY M. WILLIAMS
ELIMINATING PROVISIONS FOR KEEPING A "DUPLICATE
ASSESSMENT BOOK"
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE &
DEPARTMENT OF REVENUE1/07 INTRODUCED
1/07 REFERRED TO TAXATION
1/14 HEARING
1/14 COMMITTEE REPORT-BILL DO PASS
1/15 2ND READING PASS 97 0
1/16 3RD READING PASS 98 1TRANSMITTED TO SENATE
1/18 REFERRED TO TAXATION
1/29 HEARING
1/29 COMMITTEE REPORT-BILL CONCURRED
1/30 2ND READING CONCURRED 49 0
2/01 3RD READING CONCURRED 49 0RETURNED TO HOUSE
2/07 SIGNED BY SPEAKER
2/07 SIGNED BY PRESIDENT

2/07 TRANSMITTED TO GOVERNOR
2/08 SIGNED BY GOVERNOR
CHAPTER NUMBER 17 EFFECTIVE DATE: 10/01/85HB 32 INTRODUCED BY KEENAN
BEER IMPORTER LICENSE
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE &
DEPARTMENT OF REVENUE1/07 INTRODUCED
1/07 REFERRED TO BUSINESS & LABOR
1/08 HEARING
1/10 COMMITTEE REPORT-BILL PASS AS AMENDED
1/10 FISCAL NOTE REQUESTED
1/12 2ND READING PASS 91 1
1/14 3RD READING PASS 93 3TRANSMITTED TO SENATE
1/15 FISCAL NOTE RECEIVED
1/15 REFERRED TO TAXATION
1/29 HEARING
1/29 COMMITTEE REPORT-BILL CONCURRED
1/30 2ND READING CONCURRED 49 0
2/01 3RD READING CONCURRED 49 0RETURNED TO HOUSE
2/07 SIGNED BY SPEAKER
2/07 SIGNED BY PRESIDENT

2/07 TRANSMITTED TO GOVERNOR

2/11 SIGNED BY GOVERNOR
CHAPTER NUMBER 19 EFFECTIVE DATE: 7/01/85
SECTIONS 23, 24, 25(2) EFFECTIVE 2/11 85HB 33 INTRODUCED BY KEENAN
ESTABLISHING DEFINITION OF AND FEES FOR USERS OF
ALTERNATE FUELS
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE &
DEPARTMENT OF REVENUE1/07 INTRODUCED
1/07 REFERRED TO TAXATION
1/07 FISCAL NOTE REQUESTED
1/10 FISCAL NOTE RECEIVED
1/23 HEARING
2/08 COMMITTEE REPORT-BILL PASS AS AMENDED
2/11 2ND READING PASS AS AMENDED 82 13
2/12 3RD READING PASS 88 9TRANSMITTED TO SENATE
2/13 REFERRED TO HIGHWAYS & TRANSPORTATION
3/21 HEARING
3/29 ADVERSE COMMITTEE REPORT 47 0
3/29 BILL KILLEDHB 34 INTRODUCED BY KEENAN
STANDARD DEDUCTION FOR JOINT RETURNS TO BE TWICE THE
AMOUNT FOR SINGLE
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE &
DEPARTMENT OF REVENUE1/07 INTRODUCED
1/07 REFERRED TO TAXATION
1/07 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/23 HEARING
1/23 COMMITTEE REPORT-BILL DO PASS
1/25 2ND READING PASS 94 1
1/26 3RD READING PASS 87 0TRANSMITTED TO SENATE
1/28 REFERRED TO TAXATION
2/08 HEARING
2/08 COMMITTEE REPORT-BILL CONCURRED
2/11 2ND READING CONCURRED 50 0
2/13 3RD READING CONCURRED 50 0RETURNED TO HOUSE
2/16 SIGNED BY SPEAKER
2/16 SIGNED BY PRESIDENT2/18 TRANSMITTED TO GOVERNOR
2/20 SIGNED BY GOVERNOR
CHAPTER NUMBER 30 EFFECTIVE DATE: 10/01/85HB 35 INTRODUCED BY ERNST
INCLUDING TRUCKS HAVING ONE-TON RATED CAPACITY IN
LIGHT VEHICLE DEFINITION

1/07 INTRODUCED

IN THE HOUSE

February 4, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 32

INTRODUCED BY KEENAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

AND THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A BEER IMPORTER LICENSE, LICENSING CRITERIA, AND PROCEDURES FOR IMPORTING BEER INTO MONTANA; DEFINING "IMPORT"; ESTABLISHING A LICENSE FEE; AMENDING SECTIONS 16-1-106, 16-3-101, 16-3-104, 16-3-201, 16-3-211 THROUGH 16-3-214, 16-3-221 THROUGH 16-3-226, 16-3-230, 16-3-241 THROUGH 16-3-244, 16-4-101, 16-4-401, 16-4-407, AND 16-4-501, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency agreement" means an agreement between the department and a person appointed to sell liquor as a commission merchant rather than as an employee.

(2) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(3) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more

than .5% of alcohol by volume.

(4) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(5) "Brewer" means a person who produces malt beverages.

(6) "Department" means the department of revenue.

(7) "Immediate family" means a spouse, dependent children, or dependent parents.

(8) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

~~(8)~~(9) "Industrial use" means a use described as industrial use by the federal Alcohol Administration Act and the federal rules and regulations of 27 CFR.

~~(9)~~(10) "Liquor" means an alcoholic beverage except beer and table wine.

~~(10)~~(11) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom and with or without other wholesome products suitable for human food consumption.

~~(11)~~(12) "Package" means a container or receptacle used

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1 for holding an alcoholic beverage.

2 ~~(12)~~(13) "Posted price" means the retail price of
3 liquor as fixed and determined by the department and in
4 addition thereto an excise and license tax as provided in
5 this code.

6 ~~(13)~~(14) "Proof gallon" means a U.S. gallon of liquor
7 at 60 degrees on the Fahrenheit scale that contains 50% of
8 alcohol by volume.

9 ~~(14)~~(15) "Public place" means a place, building, or
10 conveyance to which the public has or may be permitted to
11 have access and any place of public resort.

12 ~~(15)~~(16) "Rules" means rules published by the
13 department pursuant to this code.

14 ~~(16)~~(17) "State liquor facility" means a facility owned
15 or under control of the department for the purpose of
16 receiving, storing, transporting, or selling alcoholic
17 beverages.

18 ~~(17)~~(18) "State liquor store" means a retail store
19 operated by the department in accordance with this code for
20 the purpose of selling liquor.

21 ~~(18)~~(19) "Storage depot" means a building or structure
22 owned or operated by a brewer at any point in the state of
23 Montana off and away from the premises of a brewery, and
24 which structure is equipped with refrigeration or cooling
25 apparatus for the storage of beer and from which a brewer

1 may sell or distribute beer as permitted by this code.

2 (20) "Subwarehouse" means a building or structure owned
3 or operated by a licensed beer wholesaler or table wine
4 distributor, located at a site in Montana other than the
5 site of such beer wholesaler's or table wine distributor's
6 warehouse or principal place of business, and used for the
7 receiving, storage, and distribution of beer or table wine
8 as permitted by this code.

9 ~~(19)~~(21) "Table wine" means wine as defined below which
10 contains not more than 14% alcohol by volume.

11 ~~(20)~~(22) "Warehouse" means a building or structure
12 located in Montana owned or operated by a licensed beer
13 wholesaler or table wine distributor for the receiving,
14 storage, and distribution of beer or table wine as permitted
15 by this code.

16 ~~(21)~~(23) "Wine" means an alcoholic beverage made from
17 the normal alcoholic fermentation of the juice of sound,
18 ripe fruit or other agricultural products without addition
19 or abstraction, except as may occur in the usual cellar
20 treatment of clarifying and aging, and that contains not
21 less than 7% or more than 24% of alcohol by volume. Wine
22 may be ameliorated to correct natural deficiencies,
23 sweetened, and fortified in accordance with applicable
24 federal regulations and the customs and practices of the
25 industry. Other alcoholic beverages not defined as above

1 but made in the manner of wine and labeled and sold as wine
2 in accordance with federal regulations are also wine."

3 Section 2. Section 16-3-101, MCA, is amended to read:

4 "16-3-101. Liquor dispensed only in accordance with
5 code. No brewer, beer importer, distiller, or manufacturer
6 of liquor shall, within the state, by himself, his clerk,
7 servant, or agent, give to any person any liquor except as
8 may be permitted by and in accordance with the rules made
9 under this code."

10 Section 3. Section 16-3-104, MCA, is amended to read:

11 "16-3-104. Common carriers to purchase beer from
12 brewer, beer importer, or wholesaler. It shall be unlawful
13 for the operator of any common carrier or its employees to
14 make sale of or dispose of any beer or malt liquors except
15 such as shall have been lawfully acquired or purchased from
16 a duly licensed brewer, beer importer, or wholesaler."

17 Section 4. Section 16-3-201, MCA, is amended to read:

18 "16-3-201. Possession, manufacture, importation, or
19 disposal of beer in manner other than prescribed unlawful.
20 It shall be unlawful to manufacture, import, sell or dispose
21 of, or possess for the purpose of sale beer of any kind or
22 character of an alcoholic content greater than herein
23 prescribed or other than in the manner permitted by this
24 code."

25 Section 5. Section 16-3-211, MCA, is amended to read:

1 "16-3-211. Monthly report of brewer or beer importer
2 -- inspection of books and premises. Every brewer and every
3 beer importer licensed to do business in this state shall,
4 on or before the 15th day of each month, in the manner and
5 form as shall be prescribed by the department, make an exact
6 return to the department of the amount of beer manufactured
7 or imported by him and the amount sold by him in the
8 previous month and of his inventory. The department shall
9 have the right at any time to make an examination of any
10 brewer's or beer importer's books and of his premises and
11 otherwise check the accuracy of any such return or to check
12 the alcoholic content of beer manufactured or imported by
13 him."

14 Section 6. Section 16-3-212, MCA, is amended to read:

15 "16-3-212. Brewers' or beer importers' sales to
16 wholesalers lawful. It shall be lawful for any licensed
17 brewer to sell or dispose-of deliver beer manufactured by
18 him to any licensed wholesaler. It shall be lawful for any
19 licensed beer importer to sell or deliver beer imported by
20 him to any licensed wholesaler."

21 Section 7. Section 16-3-213, MCA, is amended to read:

22 "16-3-213. Brewers or beer importers not to retail
23 beer -- original package exception. It shall be unlawful for
24 any brewer or breweries or beer importer to have or own any
25 permit to sell or retail beer at any place or premises, it

1 being the declared intention to prohibit brewers and beer
 2 importers from engaging in the retail dispensation of beer;
 3 provided, however, that this shall not be so construed as to
 4 prohibit breweries from making sale and delivery of beer
 5 manufactured by them, in original packages, at either
 6 wholesale or retail."

7 Section 8. Section 16-3-214, MCA, is amended to read:

8 "16-3-214. Beer sales by brewers and beer importers.

9 Subject to the limitations and restrictions contained in
 10 this code, any brewer or any beer importer duly licensed as
 11 such by the United States of America who manufactures beer
 12 in or imports beer into the state of Montana, upon payment
 13 of the annual license fee imposed by 16-4-501 and upon
 14 presenting satisfactory evidence to the department as
 15 required by 16-4-101, shall be licensed by the department,
 16 in accordance with the provisions of this code and such
 17 rules as may be prescribed by the department, to:

18 (1) sell and deliver beer to:

19 (a) a vendor;

20 (b) any licensees who are entitled to purchase beer
 21 from a brewer or beer importer under this code; or

22 (c) the public; or

23 (2) do any one or more of such acts of sale and
 24 delivery of beer."

25 Section 9. Section 16-3-221, MCA, is amended to read:

1 "16-3-221. Illegal acts by brewers or beer importers.

2 It is unlawful for any brewer or beer importer or any
 3 officer, agent, or representative of any brewer or beer
 4 importer to:

5 (1) coerce, or attempt to coerce, or persuade any
 6 person licensed to sell beer at wholesale to enter into any
 7 agreement or to take any action which would violate or tend
 8 to violate any of the laws of this state or any rules
 9 promulgated by the department;

10 (2) sell its products in the state without a written
 11 contract, which conforms to the provisions of 16-3-221
 12 through 16-3-226, with each appointed licensed wholesale
 13 distributor;

14 (3) designate or allow more than one wholesale
 15 distributor to sell or distribute a specific brand of the
 16 brewer's or beer importer's products to retail licensees in
 17 the same area, provided that nothing herein shall prohibit
 18 the brewer or beer importer from designating more than one
 19 wholesale distributor to sell or distribute different brands
 20 of the same manufacturer to retail licensees in the same
 21 area; and

22 (4) cancel or terminate, except for just cause or in
 23 accordance with the current terms and standards established
 24 by the brewer or beer importer then equally applicable to
 25 all wholesalers, any agreement or contract, written or oral,

1 or the franchise of any wholesaler existing on January 1,
2 1974, or thereafter entered into to sell beer manufactured
3 by the brewer or imported by the beer importer. A brewer or
4 beer importer may, notwithstanding the preceding sentence,
5 make reasonable classifications among wholesalers. If a
6 brewer or beer importer cancels or terminates a wholesaler's
7 franchise, the brewer or beer importer has the burden of
8 proving the classification was reasonable and not arbitrary.
9 After July 1, 1974, the provisions of 16-3-221 through
10 16-3-226 shall be a part of any franchise, contract,
11 agreement, or understanding, whether written or oral,
12 between any wholesaler of beer licensed to do business in
13 this state and any manufacturer or beer importer doing
14 business with the licensed wholesaler just as though the
15 provisions had been specifically agreed upon between the
16 wholesaler and the manufacturer or beer importer."

17 Section 10. Section 16-3-222, MCA, is amended to read:

18 "16-3-222. Mandatory provisions of brewer-wholesaler
19 or beer importer-wholesaler contracts, agreements, and
20 franchises. All contracts, agreements, or franchises between
21 a brewer and a wholesaler or a beer importer and a
22 wholesaler shall specifically set forth or contain the
23 following:

24 (1) that the brewer or beer importer or any officer,
25 agent, or representative of any brewer or beer importer and

1 the wholesaler involved mutually shall determine the size or
2 extent of the area in which the wholesaler may sell or
3 distribute the products of the brewer or beer importer to
4 the retail licensees. Said territory will be the territory
5 agreed upon between the wholesaler and brewer or the
6 wholesaler and beer importer and may not be changed without
7 the mutual consent of both the wholesaler and brewer or the
8 wholesaler and beer importer.

9 (2) the agreed-upon brands of the brewer or beer
10 importer to be sold by the wholesaler;

11 (3) that the brewer or beer importer recognizes that
12 the wholesaler is free to manage his business in the manner
13 the wholesaler deems best and that this prerogative vests in
14 the wholesaler the exclusive right to establish selling
15 prices, to select the brands he wishes to handle, to
16 determine the effort and resources the wholesaler will exert
17 to develop and promote the sale of the brewer's or beer
18 importer's products handled by the wholesaler;

19 (4) a procedure for the review of alleged wholesaler
20 deficiencies, including the submission in writing to the
21 wholesaler by the brewer or beer importer of said
22 deficiencies, if the deficiencies are susceptible of
23 correction and if the wholesaler desires to correct said
24 deficiencies, and that a reasonable period of time shall be
25 given the wholesaler for rectification of said deficiencies

1 prior to any notice of intent to terminate;

2 (5) a termination clause providing that the brewer or
3 beer importer shall deliver, in writing, to the wholesaler a
4 60-day notice of intent to terminate the agreement,
5 contract, or franchise."

6 Section 11. Section 16-3-223, MCA, is amended to read:

7 "16-3-223. Transfer of wholesaler's interest in
8 business. A wholesaler shall have the right to sell or
9 transfer his business or an interest in his business to any
10 person or to one or more members of his family or heirs or
11 legatees, whether the wholesaler operates as an individual,
12 a partnership, or corporation. Provided, however, the
13 consent of the brewer or beer importer in writing is
14 required for such transferee to continue as a wholesaler of
15 said brewer or beer importer, which consent shall consider
16 the personal, financial, and managerial responsibilities and
17 capabilities of such transferee and which consent shall not
18 unreasonably be withheld."

19 Section 12. Section 16-3-224, MCA, is amended to read:

20 "16-3-224. Contractual or franchise relationship --
21 existence by actions. The doing or accomplishing of any of
22 the following acts constitutes prima facie evidence of a
23 contractual or franchise relationship between a licensed
24 wholesaler and a brewer or beer importer within the
25 contemplation of 16-3-221 through 16-3-226:

1 (1) the shipment, preparation for shipment, or
2 acceptance of any order by any brewer or beer importer or
3 its agent for any beer to a licensed wholesaler within this
4 state;

5 (2) the payment by any licensed wholesaler within this
6 state or the acceptance of payment by any brewer or beer
7 importer or its agent for the shipment of an order of beer
8 intended for sale within this state."

9 Section 13. Section 16-3-225, MCA, is amended to read:

10 "16-3-225. Injunction to prevent franchise
11 cancellation. Any court of competent jurisdiction may enjoin
12 the cancellation or termination of a franchise or agreement
13 between a wholesaler and a brewer or between a wholesaler
14 and a beer importer at the instance of a wholesaler who is
15 or would be adversely affected by the cancellation or
16 termination. In granting an injunction, the court shall
17 provide that the brewer or beer importer shall not supply
18 the customers or territory of the wholesaler who is
19 servicing the territory or customers through other
20 distributors or means while the injunction is in effect."

21 Section 14. Section 16-3-226, MCA, is amended to read:

22 "16-3-226. Brewer-wholesaler or beer
23 importer-wholesaler agreements filed with department. An
24 exact copy of all agreements, contracts, or franchises
25 between a brewer or beer importer and a wholesaler shall be

1 filed with the department as a public document and shall be
 2 available to any of the parties to a dispute. The
 3 department, upon the instigation of any action in a court of
 4 record, shall file an exact certified copy of the agreement
 5 with the court for the court's consideration in determining
 6 any matter before it. Any contracts, agreements, or
 7 franchises not upon record with the department shall not be
 8 considered by any court as having any force or effect."

9 Section 15. Section 16-3-230, MCA, is amended to read:

10 "16-3-230. Out-of-state beer required to be shipped to
 11 wholesaler. All beer manufactured outside of the state of
 12 Montana and shipped into Montana shall be consigned to and
 13 shipped, either directly or via a licensed storage depot, to
 14 a licensed wholesaler and by him unloaded into his warehouse
 15 in Montana or subwarehouse in Montana. A brewer or beer
 16 importer may sell only to wholesalers from a storage depot
 17 in Montana and shall maintain records of all beer, including
 18 the name or kind received, on hand, and sold, which records
 19 may at all times be inspected by any representative of the
 20 department. Said wholesaler shall distribute said beer from
 21 such warehouse or subwarehouse and shall keep records at his
 22 principal place of business of all beer, including the name
 23 or kind received, on hand, sold, and distributed. Said
 24 records may at all times be inspected by any member or
 25 representative of the department."

1 Section 16. Section 16-3-241, MCA, is amended to read:

2 "16-3-241. Furnishing of fixtures or advertising
 3 matter to retailers by brewers, beer importers, and
 4 wholesalers unlawful -- exceptions. It shall be unlawful for
 5 any brewer, beer importer, or wholesaler to lease, furnish,
 6 give, or pay for any premises, furniture, fixtures,
 7 equipment, signs, or any other advertising matter or any
 8 other property to any retail licensee, used or to be used in
 9 the dispensation of beer in and about the interior or
 10 exterior of the place of business of any licensed retailer,
 11 or furnish, give, or pay for any repairs, improvements,
 12 painting, or decorating on or within such premises;
 13 provided, however, that it shall be lawful for a brewer,
 14 beer importer, or wholesaler to furnish, give, or loan to a
 15 retail licensee:

16 (1) bottle openers, can openers, and trays, with or
 17 without advertising matter thereon;

18 (2) advertising matter or novelties, of a value of not
 19 to exceed \$50 per brewery or beer importer in any calendar
 20 year to any one retailer, for display use on the interior of
 21 said retailer's place of business;

22 (3) not more than two illuminated or electrical signs,
 23 each of not more than 630 square inches in area, which signs
 24 may bear the name, brand name, trade name, trademark, or
 25 other designation indicating the name of the manufacturer of

1 beer and the place of manufacture, for display by the retail
 2 licensee on and within the interior of his place of business
 3 or in the windows inside the place of business of the
 4 licensed retailer and only if the particular brand of beer
 5 so advertised on such signs is actually available for sale
 6 on the licensee's premises at the time of such display; and
 7 (4) maintenance or repair services on draft beer
 8 equipment to keep it sanitary and in good working
 9 condition."

10 Section 17. Section 16-3-242, MCA, is amended to read:

11 "16-3-242. Financial interest in retailers prohibited.
 12 No brewer, beer importer, or wholesaler shall advance or
 13 loan money to or furnish money for or pay for or on behalf
 14 of any retailer any license or tax which may be required to
 15 be paid for any retailer, and no brewer, beer importer, or
 16 wholesaler shall be financially interested, either directly
 17 or indirectly, in the conduct or operation of the business
 18 of a retailer. A brewer, beer importer, or wholesaler shall
 19 be deemed to have such a financial interest within the
 20 meaning of this section if:

21 (1) such brewer, beer importer, or wholesaler owns or
 22 holds any interest in or a lien or mortgage against the
 23 retailer or his premises;

24 (2) such brewer, beer importer, or wholesaler is under
 25 any contract with a retailer concerning future purchases

1 and/or sale of merchandise by one from or to the other;

2 (3) any retailer holds an interest, as a stockholder
 3 or otherwise, in the business of the wholesaler."

4 Section 18. Section 16-3-243, MCA, is amended to read:

5 "16-3-243. Seven-day credit limitation. No sale or
 6 delivery of beer shall be made to any retail licensee except
 7 for cash paid within 7 days after the delivery thereof, and
 8 in no event shall any brewer, beer importer, or wholesaler
 9 extend more than 7 days' credit on account of such beer to a
 10 retail licensee, nor shall any retail licensee accept or
 11 receive delivery of such beer without agreement to pay in
 12 cash therefor within 7 days from delivery thereof. A
 13 correctly dated check which is honored upon presentment
 14 shall be considered as cash within the meaning of this code.
 15 Any extension or acceptance of credit in violation hereof
 16 shall be regarded and construed as rendering or receiving
 17 financial assistance, and the licenses of brewers, beer
 18 importers, wholesalers, and retail licensees involved in
 19 violation hereof shall be suspended or revoked, as
 20 determined by the department in its discretion."

21 Section 19. Section 16-3-244, MCA, is amended to read:

22 "16-3-244. Beer advertising limitations. It shall be
 23 lawful to advertise beer containing not more than 7% of
 24 alcohol by weight, as defined and regulated, subject to the
 25 restrictions on brewers and beer importers contained in

1 16-3-241 of this code and subject to the following
 2 restrictions on retailers. No retail licensee shall display
 3 or permit to be displayed on the exterior portion or surface
 4 of such retailer's place of business or on the exterior
 5 portion or surface of any building of which said place of
 6 business is a part or on any premises adjacent thereto,
 7 whether any of such premises be owned or leased by the
 8 retailer, any sign, poster, or advertisement bearing the
 9 name, brand name, trade name, trademark, or other
 10 designation indicating the manufacturer, brewer, beer
 11 importer, wholesaler, or place of manufacture of any beer
 12 whatsoever."

13 Section 20. Section 16-4-101, MCA, is amended to read:

14 "16-4-101. Applications for sale, import, or
 15 manufacture of beer -- qualifications of applicant. (1) Any
 16 person desiring to manufacture, import, or sell beer under
 17 the provisions of this code shall first apply to the
 18 department for a permit license to do so and pay with such
 19 application the license fee prescribed. The department shall
 20 require of such applicant satisfactory evidence that the
 21 applicant is of good moral character and a law-abiding
 22 person.

23 (2) Upon being satisfied, from such application or
 24 otherwise, that such applicant is qualified, the department
 25 shall issue such license to such person, which license shall

1 be at all times prominently displayed in the place of
 2 business of such applicant.

3 (3) If the department shall find that such applicant
 4 is not qualified, no license shall be granted and such
 5 license fee shall be returned."

6 Section 21. Section 16-4-401, MCA, is amended to read:

7 "16-4-401. License as privilege -- criteria for
 8 decision on application. (1) A license under this code is a
 9 privilege which the state may grant to an applicant and is
 10 not a right to which any applicant is entitled.

11 (2) Except as provided in subsection (6), in the case
 12 of a license that permits on-premises consumption, the
 13 department must find in every case in which it makes an
 14 order for the issuance of a new license or for the approval
 15 of the transfer of a license that:

16 (a) in the case of an individual applicant:

17 (i) the applicant will not possess an ownership
 18 interest in more than one establishment licensed under this
 19 chapter for all-beverages sales;

20 (ii) the applicant or any member of his immediate
 21 family is without financing from or any affiliation to a
 22 manufacturer, importer, bottler, or distributor of beer,
 23 wine, or liquor;

24 (iii) the applicant is a resident of the state and is
 25 qualified to vote in a state election;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a) of this section;

(iii) the corporation is authorized to do business in Montana; and

(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i).

(3) In the case of a license that permits only off-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership

interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of beer, wine, or liquor;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a) of this section; and

(iii) the corporation is authorized to do business in Montana.

(4) In the case of a license that permits the

1 manufacture, importing, or wholesaling of an alcoholic
2 beverage, the department must find in every case in which it
3 makes an order for the issuance of a new license or for the
4 approval of the transfer of a license that:

5 (a) in the case of an individual applicant:

6 (i) the applicant has no ownership interest in any
7 establishment licensed under this chapter for retail
8 alcoholic beverages sales;

9 (ii) the applicant has not been convicted of a felony
10 or, if the applicant has been convicted of a felony, his
11 rights have been restored;

12 (iii) the applicant's past record and present status as
13 a purveyor of alcoholic beverages and as a businessman and
14 citizen demonstrate that he is likely to operate his
15 establishment in compliance with all applicable laws of the
16 state and local governments;

17 (iv) the applicant is not under the age of 19 years;
18 and

19 (v) an applicant for a wholesale license is neither a
20 manufacturer of an alcoholic beverage nor is owned or
21 controlled by a manufacturer of an alcoholic beverage; and

22 (b) in the case of a corporate applicant:

23 (i) the owners of at least 51% of the outstanding
24 stock meet the requirements of subsection (4)(a)(ii);

25 (ii) each owner of 10% or more of the outstanding stock

1 meets the requirements for an individual listed in
2 subsection (4)(a) of this section;

3 (iii) an applicant for a wholesale license is neither a
4 manufacturer of an alcoholic beverage nor is owned or
5 controlled by a manufacturer of an alcoholic beverage; and

6 (iv) the corporation is authorized to do business in
7 Montana.

8 (5) In the case of a corporate applicant, the
9 requirements of subsections (2)(b), (3)(b), and (4)(b) apply
10 separately to each class of stock.

11 (6) The provisions of subsection (2) do not apply to
12 an applicant for or holder of a license pursuant to
13 16-4-302."

14 Section 22. Section 16-4-407, MCA, is amended to read:

15 "16-4-407. Expiration Suspension or revocation of
16 licenses. Each July 1, the department shall issue licenses
17 to brewers, beer importers, wholesalers, or retailers or for
18 the retail sale of alcoholic beverages on an annual basis
19 and at such fees as are prescribed by law, and such licenses
20 are subject to suspension or revocation under 16-4-406 after
21 midnight of June 30 of the succeeding year if the annual
22 renewal fees required by 16-4-501 are not paid. The
23 department shall notify each applicant for an original
24 license or renewal that he should inform himself of
25 applicable provisions of federal law which may require a

1 permit from a federal agency."

2 Section 23. Section 16-4-501, MCA, is amended to read:

3 "16-4-501. License and permit fees. (1) Each beer
4 licensee licensed to sell either beer or table wine only, or
5 both beer and table wine, under the provisions of this code,
6 shall pay an annual license fee as follows:

7 (a) each brewer and each beer importer, wherever
8 located, whose product is sold or offered for sale within
9 the state, \$500; for each storage depot, \$400;

10 (b) each beer wholesaler, \$400; each table wine
11 distributor, \$400;

12 (c) each beer retailer, \$200; with a wine license
13 amendment, an additional \$200;

14 (d) for a license to sell beer at retail for
15 off-premises consumption only, the same as a retail beer
16 license; for a license to sell table wine at retail for
17 off-premises consumption only, either alone or in
18 conjunction with beer, \$200;

19 (e) any unit of a nationally chartered veterans'
20 organization, \$50.

21 (2) The permit fee under 16-4-301(1) is computed at
22 the rate of \$15 a day for each day beer and table wine are
23 sold at those events lasting 2 or more days but in no case
24 be less than \$30.

25 (3) The permit fee under 16-4-301(2) is \$10 for the

1 sale of beer and table wine only or \$20 for the sale of all
2 alcoholic beverages.

3 (4) Passenger carrier licenses shall be issued upon
4 payment by the applicant of an annual license fee in the sum
5 of \$300.

6 (5) The annual license fee for a license to sell wine
7 on the premises, when issued as an amendment to a beer-only
8 license, is \$200.

9 (6) The annual fee for resort retail liquor licenses
10 within a given resort area shall be \$2,000 for each license.

11 (7) Each licensee licensed under the quotas of
12 16-4-201 shall pay an annual license fee as follows:

13 (a) except as hereinafter provided, for each license
14 outside of incorporated cities and incorporated towns or in
15 incorporated cities and incorporated towns with a population
16 of less than 2,000, \$250 for a unit of a nationally
17 chartered veterans' organization and \$400 for all other
18 licensees;

19 (b) except as hereinafter provided, for each license
20 in incorporated cities with a population of more than 2,000
21 and less than 5,000 or within a distance of 5 miles thereof,
22 measured in a straight line from the nearest entrance of the
23 premises to be licensed to the nearest boundary of such
24 city, \$350 for a unit of a nationally chartered veterans'
25 organization and \$500 for all other licensees;

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and shall be paid by the applicant. When the

premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsection (d) of this subsection shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000 for any such license issued. The one-time license fee of \$20,000 shall not apply to any transfer or renewal of a license duly issued prior to July 1, 1974. All licenses, however, are subject to the annual renewal fee.

(8) The fee for one all-beverage license to a public airport shall be \$800. This license is nontransferable.

(9) The license fees herein provided for are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(10) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year, 66 2/3% of any license fee delinquent on

HOUSE BILL NO. 32

INTRODUCED BY KEENAN

BY REQUEST OF THE DEPARTMENT OF REVENUE
AND THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Business and Labor.
January 10, 1985	Committee recommend bill do pass as amended. Report adopted.
	Fiscal Note requested.
January 11, 1985	Bill printed and placed on members' desks.
January 12, 1985	Second reading, do pass.
	Considered correctly engrossed.
January 14, 1985	Third reading, passed.
January 15, 1985	Fiscal Note returned. Transmitted to Senate.

IN THE SENATE

January 15, 1985	Introduced and referred to Committee on Taxation.
January 29, 1985	Committee recommend bill be concurrent in. Report adopted.
January 30, 1985	Second reading, concurrent in.
February 1, 1985	Third reading, concurrent in. Ayes, 49; Noes, 0.
	Returned to House.

1 August 1 of the renewal year, and 100% of any license fee
2 delinquent on September 1 of the renewal year."

3 NEW SECTION. Section 24. Extension of authority. Any
4 existing authority of the department of revenue to make
5 rules on the subject of the provisions of this act is
6 extended to the provisions of this act.

7 NEW SECTION. Section 25. Authority to proceed with
8 rulemaking. The department of revenue may initiate
9 rulemaking proceedings under section 24 on or after passage
10 and approval of this act, but no rules under section 24 may
11 be made effective prior to the effective date of sections 1
12 through 23.

13 NEW SECTION. Section 26. Effective date. (1) Sections
14 1 through 23 and this subsection (1) are effective July 1,
15 1985.

16 (2) Sections 24, 25, and this subsection (2) are
17 effective on passage and approval.

-End-

FISCAL NOTE

REQUEST NO. FNN054-85

Form BD-15

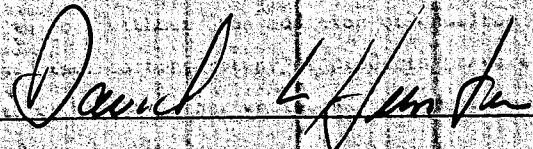
In compliance with a written request received January 10, 1985, there is hereby submitted a Fiscal Note for H.B. 32 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

An act establishing a beer importer license, licensing criteria, and procedures for importing beer into Montana; defining "import"; establishing a license fee and providing effective dates.

FISCAL IMPACT

At the present time importers are considered brewers and charged an annual license fee of \$500. This bill proposes an annual license fee of \$500 for beer importers. Therefore, no effect on revenue will result.


BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 15, 1985

STATUS SHEET

49TH

LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND LABOR

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
20	1-4	1-8	1-8	1-8					
28	1-4	1-11/1-15	1-15			1-15			
29	1-4	1-8	1-8	1-8					
32	1-4	1-8/1-9	1-9			1-9			
41	1-4	1-9/1-10	1-10	WITHOUT RECOMMENDATION					
43	1-4	1-8/1-15	1-15			1-15			
72	1-4	1-16/1-18	1-18			1-18			
85	1-4	2-13	2-13	2-13					
90	1-4	1-10/1-14/ 2-5			TABLED				
96	1-4	1-16/1-18	1-18	1-18					
96	1-21	1-21	1-21			1-21	(REREFERRED)		
97	1-4		REREFERRED TO JUDICIARY						
107	1-4	1-11/1-15	1-15			1-15			
121	1-7	1-22/1-23 2-22	2-22			2-22			
124	1-9	1-15	1-15	1-15					
127	1-9	1-15/1-23			TABLED				

Use a separate sheet for Senate, House Bills, and Resolutions

Proponent James Madison of the Department of Revenue stated that the responsibility given to the Department of Revenue in making the determination of residency was merely an oversight of the last legislative session.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 29 was closed.

ACTION ON HOUSE BILL NO. 29: Representative Jan Brown made a motion that HB 29 DO PASS. The motion was seconded by Representative Wallin and passed unanimously.

HOUSE BILL NO. 32: Hearing commenced on House Bill No. 32. Representative Nancy Keenan, District #66, sponsor of the Bill, called on Proponent Mike Garrity for explanation.

Mr. Garrity of the Department of Revenue stated that one purpose of this bill is to make a beer importer subject to the same laws for selling beer as a brewer or wholesaler. With the increase of foreign (outside U.S.) beer being imported into the state of Montana, it is important that a beer importer be licensed as a brewer, Mr. Garrity explained. He further added that a beer importer should be subject to the same requirements as a brewer, e.g., licenses, dues, filing agreements, shipping restrictions, financial interest restrictions. He passed out to committee members Exhibit No. 1 at this time, recommending that HB 32, be amended as shown on Exhibit No. 1. Said amendments would enable a beer importer to sell to a licensed wholesaler, not the public. In closing, Mr. Garrity added that a more avid means for controlling alcohol coming across the state line would be established by the passing of HB 32.

Proponent Roger Tippy, Executive Secretary of the Montana Beer and Wine Wholesalers Association of which all 49 wholesalers operating in Montana belong, stated that a brewers licensing fee of \$500.00 per year is charged to each importer. With several states not requiring a fee for such license, Montana does appear to be less appealing to importers. A suggestion to the committee by Mr. Tippy was that the fee level be reduced to \$200.00 per year, which could result in more firms being licensed in Montana. There were 15 brewers licensed in 1984 and 2 firms will not be renewing their licenses. With a lower fee, Mr. Tippy expects the licensing of 40 import firms. Mr. Tippy passed out to committee members Exhibit 2 at this time which further outlines his testimony, setting out the proposed amendments and showing the licensed beer importers in Montana.

Proponent Tom Mulholland, Assistant Administrator of the Liquor

Division stated that the department anticipates the smaller importers of domestic beer would not seek a license in Montana due to the fee. These smaller entities would in turn sell to a larger entity who would in turn bring beer in Montana. He did not see a need for the amendment redefining warehouse and subwarehouse.

Representative Wallin asked Mr. Tippy if he was speaking on behalf of the importers. He was not but did inform the importers of this piece of legislation at their last national meeting.

Representative Kadas questions Mr. Tippy as to his amendment number 2, which is shown on Exhibit 2. Kadas asked if this would create a problem for a smaller brewery to get a license, such as the local Kessler Brewery. Mr. Tippy did acknowledge this and said that he would have no objection to the committee disregarding this amendment.

Representative Kadas then asked Mr. Tippy if a licensing fee of \$100.00 would cover all expenses. Mr. Tippy felt that \$100.00 would be too little and that \$500.00 would be excessive.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill No. 32 was closed.

ACTION ON HOUSE BILL NO. 32 - Representative Kadas made a motion that the amendment to strike section 8 in its entirety, DO PASS. This amendment was passed unanimously.

Representative Kadas then made a motion to pass amendment 8, (as shown on Exhibit 2) with the \$200.00 figure being reduced to \$150.00.

Following this motion, controversial discussion followed between the committee members. Representative Kadas made a motion to withdraw all of the above motions.

HOUSE BILL NO. 44 - Hearing commenced on House Bill No. 44. Representative Hal Harper, District #44, sponsor of the bill, stressed the importance of adopting a trade secret act. With the technology field moving so rapidly, Rep. Harper feels this act is needed for protection. The "hi-tech" industry is not protected by federal law.

Proponent Bill Lekhard stated that a uniform bill has been adopted in six states. He added that although protected patents are available, they are extremely difficult to obtain and to enforce.

Proponent Karl Englund, with the Montana Trial Lawyers Associa-

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Jan. 8, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormick	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

HB 32

Revenue amendments

House Bill No. 32, introduced bill be amended as follows:

1. Page 7, line 8
Strike: "and beer importers "
2. Page 7, line 10
Strike: "or any beer importer"
3. Page 7, line 12
Strike: "or imports beer into"
4. Page 7, line 21
Strike: "or beer importer"

1. Page 7, line 7 through 24

Strike: section 8 in its entirety

Remember, subsequent section

Garrity

BEER IMPORTERS LICENSED BY MONTANA

Guy de Stefano, Jr., President
Advanced Brands, Ltd.
892 Main Street
Waltham, MA 02154

Richard L. Becker
All Brand Importers, Inc.
460 Park Avenue
New York City, NY 10022

~~Boles & Company, Inc.
ATTN: Diane Guillory
658 Sacramento St., Suite 110
San Francisco, CA 94111~~

Richard Fogarty, President
Carlton Importing Co.
155 East 44th Street
New York City, NY 10017

Chris D. Hildebrandt, President
Chrissa Imports, Ltd.
50 Cypress Lane
Crocker Industrial Park
Brisbane, CA 94005

Grolsch Importers, Inc.
ATTN: George Wertheimer
1985 N. Park Place
Atlanta, GA 30339

Robert F. Kinsey, President
Guinness-Harp Corporation
37-88 Review Avenue
Long Island City, NY 11101

JFC International, Inc.
ATTN: Masaki Miki
445 Kauffman Court
So. San Francisco, CA 94080

Charles Finkel, President
Merchant du Vin Corporation
214 University Street
Seattle, WA 98101

Moctezuma Imports, Inc.
ATTN: Jesus Romero
2590 Main Street
Irvine, CA 92714

Monarch Import Co.
ATTN: Gilbert Apodaca
4500 Second Avenue
Brooklyn, NY 11232

~~Royal Beverage Co., Inc.
ATTN: Seigo Nishihara
1884 E. 22nd St.
Los Angeles, CA 90058~~

Van Munching & Co., Inc.
ATTN: Denis Hepburn
1270 Avenue of the Americas--10th Floor
New York City, NY 10020

Wine Warehouse
ATTN: Robert Myerson
800 East 9th Street
Los Angeles, CA 90021

Wisdom Import Sales Co.
17401 Eastman Avenue
Irvine, CA 92714

OHIO — (1) Brewers, wholesalers, and railroad licensees; (2) Out-of-state brewers or wholesalers who sell to Ohio permittees must register with Tax Commissioner; (3) Bond may be required by Tax Commissioner; (4) Brewers and Importers must file a report on or before the tenth of each month of sales in Ohio during the preceding month and pay the tax due, after deductions for advance payments, credits, etc.; (5) Tax reports by 10th of each month; advance payment on 18th; (6) Registration required; no fee prescribed; (7) Beer may be imported only on written consent of department of liquor control. Interstate shipment of beer in bulk is prohibited.

OKLAHOMA — (1) 3.2 wholesalers; with Oklahoma license to retailers. Over 3.2, class B wholesalers; (2) 3.2: \$500, if business is transacted in the state; additional \$250 if selling to retailers. Over 3.2: Certificate of Approval required; fee \$50; (3) No; (4) Oklahoma wholesalers by monthly reports; (5) Monthly reports; (6) Over 3.2% manufacturer's agent's license \$55; (7) If out-of-state shippers operates under a wholesale license he is required to file monthly reports and remit tax. If he does not have a wholesale license, the tax is paid by the first licensed wholesaler or retailer to sell the beverage in the state. Taxes paid at time of filing report.

OREGON — (1) Brewers and wholesalers; (2) Yes, at fee of \$50; (3) No; (4) Monthly reports; (5) Yes, by 20th of each month; (6) Salesman's license required; fee \$5; (7) Beer may be imported only by state licensee (either brewer or wholesaler) so that shipment must be property of state licensee and under his control when it enters state.

PENNSYLVANIA — (1) Importing distributors; (2) No; (3) Bond required of brewers, minimum \$5,000.00; (4) Taxes are paid monthly with sales report; (5) Yes, report of shipments and tax payment by 15th of each month; (6) No; (7) Surety bond in penal sum of \$2,000.00 required. Filing fee of \$20 and license fee of \$50; \$2 charge for each vehicle identification card.

RHODE ISLAND — (1) Wholesale licensees only; (2) Certificate of compli-

ance, fee \$15.00 per brand; (3) No; (4) R.I. brewer by monthly reports, in-state licensee with import orders; (5) Duplicate copy of invoice bearing import order number of every shipment must be mailed to department day shipment is made; (6) Agent's permit required; fee \$25; (7) Sales to retailers may be made only by holder or wholesaler's licenses.

SOUTH CAROLINA — (1) Licensed wholesalers only; (2) Yes, fee \$100.00; (3) Commission may require cash bond or surety bond; (4) Monthly reports; (5) Monthly reports of shipments, invoices and bill of lading to Tax Commission; (6) No.

SOUTH DAKOTA — (1) Brewers or wholesalers; (2) No; (3) No; (4) By in-state licensee by monthly report due 15th of following month; (5) Manifest or other document must be forwarded to Dept. of Revenue on date of shipment, to be in Dept.'s hands when beverages received in state; (6) Solicitor's license for beer over 3.2% by weight; fee \$25; (7) Suitable sample including label must be submitted to state chemist with annual fee of \$25 before malt beverages may be sold in state.

TENNESSEE — (1) Licensed wholesalers; (2) \$40.00 registration. License fees up to \$1,000; (3) Domestic brewers must give bond of twice monthly taxes; (4) Monthly reports; Special state privilege tax on barrels of beer shall be paid on or before the 20th day of the month following the month in which accrues. (5) Reports required by 20th of each month; (6) No; (7) Certificate of registration at fee of \$10 for retailers, \$20 for wholesalers and \$40 for brewers, must be obtained before any storage, sale or distribution is made inside state. Wholesaler must maintain a wholesale price list, a file same with the Department and with a tax collection official of each county and municipality wherein he makes wholesale sales. Notice of any change in such price list shall be delivered to the Department and the tax collection official of each county and municipality where sales are made.

TEXAS — (1) Licensed Importers, brewers and wholesalers; (2) 4% non-resident manufacturer, \$500; over 4% permit, non-resident brewer, \$1,000; must also obtain non-resident seller's permit, \$100; (3) Non-resident manufacturer transporting beer to importer, minimum \$1,000; (4) Responsibility of tax payment rests with wholesaler of imported beer and with brewer operating in Texas. Taxes due on 15th day of month following month in which beer was imported or sold; (5) Monthly reports by out-of-state shippers; (6) 4% agent's beer license, \$10. Over 4%: permit, \$10; (7) Out-of-state shippers must file with Secretary of State name and address of agent in Texas on whom service may be made. No shipments on consignment.

UTAH — (1) Licensed wholesalers; (2) Certificate of approval, annual fee \$25.00; (3) No; (4) Monthly reports; (5) Monthly report due on 15th of month; (6) No; (7) To obtain certificate of approval, brewer must agree in writing to report details of all state sales, to comply with law and regulations.

VERMONT — (1) Licensed wholesaler, also to consumers; (2) Certificate of approval, fee \$1,500; (3) No; (4) By in-state wholesaler at time of filing reports; (5) Monthly reports required by twentieth of month; (6) Solicitor's permit required, annual fee \$10; (7) To obtain certificate of approval, brewer must agree in writing to report details of all state sales to comply with law and regulations.

VIRGINIA — (1) Licensed wholesalers; (2) "Importer's license" required, fee \$100; (3) No; (4) Monthly reports; (5) Monthly report by 15th of month; (6) Salesmen must register and obtain permit; annual fee \$100; (7) Transporters other than state licensees must file \$1,000 bond. Evidence of payment of bond and memorandum of shipment showing route to be travelled must accompany each shipment. All beer, ale and stout shipped into state must be marked as not containing an excess of 3.2 alcohol by weight. Importer's license required: \$100 fee

WASHINGTON — (1) To licensed beer importers; (2) Certificate of approval, fee \$50; (3) Bond conditioned upon payment of tax is required; (4) At time of filing monthly reports; (5) Reports and tax payment by 20th of each month; (6) Agents license, \$15, must represent Washington license; (7) To obtain certificate of approval, out-of-state brewer must agree to report each month, to comply with law and regulation.

WEST VIRGINIA — (1) Licensed distributor; (2) Contract and bond required; (3) Bond of not less than \$5,000 nor more than \$10,000; (4) By tax crowns, lids and barrel stamps; (5) Reports must be filed by 10th of each month; (6) Permits required; annual fee \$10; (7) Out-state brewers must file their prices by brands and container sizes with the Beer Commission.

WISCONSIN — (1) Licensed wholesalers; (2) Wisconsin brewers, bottlers and wholesalers must obtain registration number from Commissioner of Taxation. No fee. Out-of-state brewers and wholesalers must have permit from Commissioner to ship into state. No fee; (3) Bond of not less than \$1,000 or more than \$5,000; (4) Monthly reports; (5) Monthly reports; (6) No.

WYOMING — (1) Licensed wholesalers; (2) No; (3) No; (4) Monthly reports; (5) An exact copy of invoice of every shipment must be sent to commission; (6) No licenses required of shipping brewers salesmen. A license is required by any person, corporation, or group planning occasions for the consumption or sale of beer and such permits may be obtained from issuing authorities, cities or counties, at figures set by them which range from \$5 to \$10 per day for the sale of beverages over 3.2%.



tion with _____ and liquor control department. \$50 registration fee.

KANSAS — (1) Wholesalers or distributors only; (2) Agreement must be signed and bond furnished; (3) Bond amount is 3 times the tax the Dir. of Revenue estimates the manufacturer or importer will be liable for during any one month, but not less than \$5,000; (4) By monthly reports by brewers; or wholesale importer by agreement with director of taxation; (5) Invoice of each shipment and monthly tax reports; (6) Permit required if salesman handles beer stronger than 3.2% alcohol by weight. Fee \$10.

KENTUCKY — (1) Brewers, wholesalers and railroads; (2) Must register with A.B.C. Board; (3) \$1,000 bond required; (4) By monthly reports in- and out-state brewer; tax paid monthly by shipping brewer; (5) Report and tax payment by the fifteenth of each month; (6) No.

LOUISIANA — (1) Licensed wholesalers only; (2) None, but must obtain written authority from Secretary of Revenue Department. Wholesalers who have posted bond are exempt; (3) No; (4) By state dealer by reports; (5) Yes; (6) Salesmen of beer over 6% by volume need license fee \$1; (7) Transporter required to have invoice showing details of shipment, and transportation must be effected by common carrier operating under the I.C.C. or by a Louisiana wholesaler dealer's personally owned vehicle, with special permit on each load moving into state.

MAINE — (1) Wholesale licensees; (2) Certificate of approval; fee \$600. No shipment may be made until certificate or confirmation has been received from Commission that tax has been paid. Shipment must be accompanied by invoice; (3) No; (4) By in-state licensee before shipment may be made; wholesaler may post bond and pay monthly; (5) Copy of every invoice; also report by 10th of each month; (6) All brewery representatives must be licensed, fee \$10.

MARYLAND — (1) Brewers, wholesalers and railroads; (2) Permit required of non-resident dealers, fee \$50; (3) \$5,000 mini-

mum bond for non-resident dealer; (4) Monthly reports by in- or out-state brewer; in Garrett County, an additional tax is imposed and will be paid by some method other than the use of tax-paid crowns or stamps until June 30, 1981; (5) Report due 15th of each month; (6) No; (7) Out-state shipper sends certificate check to purchase stamps or obtain crown release. In-state brewers pay tax by return method and furnish bond.

MASSACHUSETTS — (1) Licensed wholesalers and importers; (2) Certificate of Compliance; fee not over \$10; (3) No; (4) By in-state licensee by reports; (5) As required by commission; (6) Selling agents' license required, fee \$1,000 to residents only; may solicit only wholesalers and importers. Also salesman's license fee, \$15.00.

MICHIGAN — (1) Licensed wholesalers; (2) Out-of-state seller's license, \$1,000 fee; (3) Bond of \$1,000 or equal to 1/2 of the total excise taxes paid in the last calendar year, whichever is greater; (4) By shipping brewers twice monthly; (5) Monthly report of shipments and semi-monthly tax payments; (6) License required, fee set by written order; renewed every 3 years.

MINNESOTA — (1) Brewers or wholesalers; (2) \$100 license required and agreement must be signed; (3) Bond of \$1,000 to \$5,000 may be required; (4) By monthly reports in- and out-state brewers; (5) Report and tax payment due by 15th of month; (6) Identification cards required for salesmen over 3.2% beer; fee \$1.00.

MISSISSIPPI — (1) Wholesalers or distributors; (2) Yes, agreement must be signed to obtain tax crowns; (3) Bond required effective 11/1/77 in an amount determined by Commissioner. Effective 11/1/78, bond required will be in an amount equal to total of excise taxes owed or due for both the 3 highest months of the preceding 12 months; (4) Monthly reports by brewers or manufacturers; (5) Invoice covering each sale, reports filed by 15th of each month shipments are made; (6) No; (7) To transport beer into state, distributor must first obtain permit from state tax commission.

MISSOURI — (1) Licensed wholesalers; (2) License to sell to wholesalers, fee \$50 each for 3.2 and over 3.2%; (3) \$1,000-\$100,000 bond required; determined by the Supervisor of Liquor Control, but not to exceed twice the amount of tax liability of a monthly return; (4) Reporting System; (5) Monthly report and tax payment due on the 15th; (6) No.

MONTANA — (1) Brewers or wholesalers; (2) Brewer's license, fee \$500; (3) No; (4) Monthly reports; (5) Out-state brewers must report shipments made into state by duplicate invoice of sales or deliveries; (6) No.

NEBRASKA — (1) Licensed distributors; (2) Out-of-state shippers permit required; fee \$100; (3) Bond required; minimum \$5,000, maximum \$300,000; (4) By monthly reports, brewers and distributors; (5) Report and tax payment by 15th of each month; (6) No.

NEVADA — (1) Licensed importers only; (2) Certificate of compliance required, no fee; (3) No for out-state brewer, but importer is required to furnish surety bond; (4) Monthly reports; (5) Reports must be filed by 10th of each month; (6) No; (7) Shipments must be carried regularly operating as such, unless special permit is secured for each shipment.

NEW HAMPSHIRE — (1) Licensed wholesalers; (2) Certificate of approval, fee \$750; (3) Commission may require bond in such amount as it determines; (4) By wholesaler on all beverages sold by him to retailers for the previous month, with payment made by the tenth day of the month; (5) Reports must be filed by the 10th of each month; (6) Solicitor's permit required at annual fee of \$10.00; (7) Besides certificate of approval, shippers must be registered with state board of health at annual fee of \$10.

NEW JERSEY — (1) Brewers or wholesalers; (2) No, unless orders solicited within state; (3) Bond may be required in an amount satisfactory to the Dir. of the Division of Taxation; (4) Brewers and wholesalers; bi-monthly reports on sales of first delivery into state; (5) Yes; (6) Solicitors permit fee \$15.00; only to agents of the N.J. licensees.

NEW MEXICO — (1) Brewers or wholesalers; (2) Non-resident license; between \$300-\$3,500 dependent on gross sales; (3) Bond required; same amount as license fee; (4) By in-state licensee by report; (5) Must mail to division one copy of invoices of each shipment and copy of bill of lading; (6) Annual license fee \$25.00; (7) Shipments from out-state to state wholesaler must be to places covered by the wholesaler license.

NEW YORK — (1) Brewers or wholesalers or retailers; (2) No, unless orders solicited within state; (3) No; (4) By in-state licensee at time of filing reports; (5) Monthly reports; New York manufacturers or importers on sales. New York City excise tax — monthly reports — wholesalers. (6) No Solicitor's "negotiating" permit; fee from \$20 — \$200, depending on number of transactions; only to agents of NY licensees; (7) To solicit or take orders in state, out-state brewers must have state wholesaler license, fee \$500, and have place of business in state. Out-of-state brewer or wholesaler may negotiate with in-state wholesaler for establishment of agency for sale of his products in the state. Fee of negotiations permit, \$100 annually, or \$10 for a single transaction.

NORTH CAROLINA — (1) Wholesalers or bottlers; (2) Out-state brewer must get permit, fee \$150; (3) \$2,000 bond may be required; (4) Monthly reports; (5) Monthly reports by 15th; (6) Vendor representative permit — \$25 fee; (7) Out-state brewer must put permit number on every invoice. Highway trucks must have certificate to transport beer, no fee, also must carry invoice covering shipment. Brewers, before making delivery to distributor of tax-free beer destined for military consumption, must affix on top of each carton or other container a label with letters not less than two inches in height reading: "For military use."

NORTH DAKOTA — (1) Licensed wholesalers; (2) No; (3) No; tax bond for over 4% beer fixed by State Treasurer; (4) Monthly reports; (5) Monthly report of shipments by 15th of each month; (6) No; (7) Sample of beer must be sent to food commissioner at annual fee of \$50 per brand.

1981. Statute provides for return to \$3.40 rate in any year following enactment of mandatory deposit legislation on or before June 30, 1984, whichever occurs first. (2) \$3.90; (& 17% wholesale price); (3) 28.306 cents. Plus 17% of wholesale price; (4) 37.74 cents; (5) 37.74 cents.

TEXAS—(1) \$5.00 per barrel; over 4% by weight, 16½ cents per gallon; Exemption of 25% of tax on products manufactured in Texas by manufacturer producing not over 75,000 barrels each year; (2) Up to 4% by weight, \$5.00; over 4% by weight, \$5.115; (3) Up to 4% by weight, .36292 cents; over 4% by weight, .3713 cents; (4) none; (5) .48398 cents on 4%, .495 on over 4%.

UTAH—(1) \$11.00 per barrel; (2) \$4.12 (over 3.2); (3) 29.903 cents; (4) 39.871 cents; (5) 39.871 cents.

VERMONT—(1) 26½ cents per gallon; (2) \$8.215; (3) 59.625 cents; (4) 79.5 cents; (5) 79.5 cents.

VIRGINIA—(1) \$7.95 per barrel; 7 oz., 2 cents per bottle; 12 oz., 2.65 cents per bottle over 12 oz., \$2.22 mills per ounce; (2) \$7.95; (3) .6358 cents; (4) .8477 cents; (5) .8477 cents.

WASHINGTON—(1) \$2.782 per barrel; From 8/1/82 — 6/30/83, a 7% surcharge is added to and imposed on the \$2.60 per barrel tax. (2) \$2.782; (3) 20.193 cents; (4) 26.923 cents; (5) 26.923 cents.

WEST VIRGINIA—(1) \$5.50 per barrel; (2) \$5.50; (3) 40 cents; (4) .5333 cents; (5) .5333 cents.

WISCONSIN—(1) \$2.00 per barrel. Tax rate reduced 50% on first 50,000 barrels in a year in which any brewer produces less than 300,000 barrels; (2) \$2.00; (3) .1452 cents; (4) .1936 cents; (5) .1936 cents.

WYOMING—(1) 2 cents per gallon; (2) 62 cents per barrel; (3) 4½ cents; (4) 6 cents; (5) 6 cents.

SHIPPING REQUIREMENTS AFFECTING BREWERS

KEY — (1) To whom beer may be shipped,
(2) License or certificate of approval required?
(3) Bond required?
(4) How taxes are paid;
(5) Reports and records required?
(6) Salesman's license required?
(7) Special provisions.
Information supplied by U.S.B.A.

ALABAMA — (1) Licensed wholesaler; (2) Agreement required, but no license; (3) No; (4) Crowns, lids or other identification — manufacturers; monthly reports — wholesalers and distributors. Draft (special permits). (5) Monthly; (6) Registration required (affidavit filed); \$15 annual fee.

ALASKA — (1) Licensees; (2) General Wholesale license for each point of distribution (minimum fee of \$500) and other applicable licenses. (3) \$25,000 bond required; (4) Tax paid monthly by

shipping brewer; (5) Monthly report required; (6) No.

ARIZONA — (1) Licensed wholesaler; (2) Out-of-state brewer's license; fee \$200. Annual renewal fee \$50. (3) No; (4) Monthly reports; Arizona wholesalers on beer received. (5) Copies of all invoices filed with State Tax Commission; (6) Registration with superintendent required; fee \$10.

ARKANSAS — (1) Licensed wholesaler; (2) No, but wholesaler must furnish "Authorization to Transport"; (3) No; (4) By

or state wholesaler by reports; (5) Monthly reports of shipments or sales; (6) No.

CALIFORNIA — (1) Importers of manufacturers; (2) Certificate of compliance; no fee; Out-of-State manufacturer's certificate, fee \$50; (3) No; (4) Monthly reports; (5) Yes — reports must be filed by 10th of each month; (6) Out-of-state brewers must have wholesalers license at \$56 annual fee.

COLORADO — (1) Licensed importers or wholesalers; (2) Non-resident manufacturer's license or importer's license required; \$100 for 3.2%; \$250 for over 3.2%; (3) May require \$2,000 bond; (4) Monthly reports; (5) Invoice of each shipment (within 48 hours) and monthly report; (6) No; (7) All importations must be property of state wholesaler when they cross state line. No such licensee shall sell, offer or expose for sale or distribute within the state any fermented malt beverages in bottles or cans of less than thirty-three (33) ounces capacity unless said containers, or a label attached thereto, shall carry thereon in clear legible and indelible print a statement which clearly indicates that the beverage therein contains more than 3.2% alcohol by weight.

CONNECTICUT — (1) Wholesalers and brewers; (2) Yes, out-of-state shipper's permit necessary, fee of \$1,000 or \$45 for an in-state manufacturer or wholesaler, respectively, holding out-of-state shipper's permit; (3) No; (4) In-state licensee by reports; (5) Yes; (6) Salesman must be registered by his out-of-state shipper employer with the Liquor Control Commission may contact only wholesalers; (7) Out-of-state shipper's permit allows representative thereof to solicit Connecticut manufacturer and Connecticut wholesaler only. May not solicit retail trade unless out-of-state shipper has a Connecticut wholesale permit.

DELAWARE — (1) Licensed importers and manufacturers; (2) Supplier's permit; fee \$250 (\$25 if 50 or less cases in year; (3) Commission may require bond in amount it deems necessary; (4) Tax paid weekly by wholesaler; (5) Weekly reports showing daily shipments; (6) permits for sales representatives; fee \$25; (7) Transporter must carry way bill and each case

or key carry stamp. Permits for salesmen have \$25 fee.

DISTRICT OF COLUMBIA — (1) Brewers and wholesalers or retailer, under separate permit; (2) No; (3) No; (4) By District of Columbia licensee on or before 15th of each month on sales of preceding month; (5) Yes; (6) \$100 license.

FLORIDA — (1) Brewers, distributors and railroads; (2) No; (3) No; (4) By state licensees by inventory reports; (5) Monthly reports of shipments; (6) No.

GEORGIA — (1) Brewers or wholesalers; (2) Registration with State Revenue Commissioner and approval of brand, label, alcoholic content by volume, and names of Georgia wholesalers to whom shipments are made necessary before any shipments can be made into state; (3) \$5,000 bond required for out-of-state shippers; (4) Monthly reports; Georgia wholesalers on sales; (5) Monthly; (6) Registration with Georgia Dept. of Revenue, no fee prescribed.

HAWAII — (1) Licensed manufacturers or wholesalers; (2) No; (3) No provisions; (4) Monthly reports; (5) Yes; (6) No.

IDAHO—(1) Licensed dealers only; (2) Certificate of approval; no fee; (3) Yes, bond for twice the average monthly tax; minimum \$1,000; (4) By monthly reports by in- and out-state brewer; (5) Monthly reports of all shipments.

ILLINOIS — (1) Foreign importers and importing distributors; (2) No; (3) No; (4) Monthly reports; (5) Reports by fifteenth of month; (6) No.

INDIANA — (1) Licensed wholesalers; (2) Brewer must execute agreement on prescribed forms; (3) Bond for average monthly tax required by brewers who pay by reports; (4) By reports; reciprocal law requiring stamps on beer from states where crowns and keg stamps are still in use; (5) Monthly reports; also monthly tax payment; (6) Permit is required; fee \$5; must post \$500 bond.

IOWA — (1) Brewers or wholesalers; (2) Certificate of compliance; fee \$100; (3) No; (4) By Iowa brewers and wholesalers by monthly reports; (5) Yes; (6) Registra-

AMENDMENTS
PROPOSED TO HB32
By the Beer & Wine Wholesalers Assn.

1. Page 2, line 4

Following: line 3

Insert: "(5) "Beer importer" means a
person other than a brewer
who imports malt beverages."

Renumber: following subsections

2. Page 2, line 10

Following: "outside the"

Strike: "state of Montana"

Insert: "United States of America"

3. Page 4, lines 2 through 8

Strike: subsection (20) in its entirety

Renumber: following subsections

4. Page 4, line 12

Strike: "located in Montana"

Following: "licensed"

Strike: "beer"

5. Page 4, line 13

Following: "wholesaler"

Strike: "or table wine distributor"

6. Page 4, line 14

Following: "beer"

Strike: "or table wine"

7. Page 23, line 7

Following: "brewer"

Strike: "and each beer importer"

8. Page 23, line 10

Following: line 9

Insert: "(b) each beer importer, wherever located,
whose product is sold or offered for sale
within the state, \$200; for each storage
depot, \$100;

Reletter: following subsections

BEFORE THE COMMITTEE ON BUSINESS AND LABOR
MONTANA HOUSE OF REPRESENTATIVES

House Bill 32)
By Keenan (Request)
of Dept. of Revenue))
Establishing a Beer)
Importer License)

STATEMENT OF MONTANA BEER & WINE
WHOLESALE ASSOCIATION
IN SUPPORT - WITH AMENDMENTS

I am Roger Tippy, Executive Secretary of the Montana Beer and Wine Wholesalers Association, a trade association to which all 49 wholesalers operating in Montana belong. Nearly all wholesalers handle one or more lines of imported beers as side-lines to their main products, and they are interested in clarification of the status of beer importers.

At the present time importers of foreign beers must take out a brewer's license to do business in Montana. Thirteen companies are presently so licensed; seven or eight of these do most of the business, which constitutes about 1% of the beer consumed in Montana. Nationally, around 3% of all beer consumed is imported and this total is rising even as domestic beer production and consumption is holding still or falling.

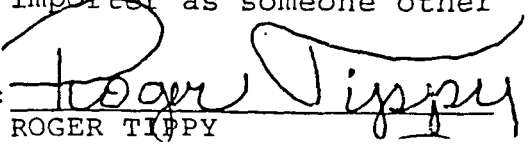
While importers considering Montana as a market have not experienced major difficulties in getting brewers' licenses from DOR, the \$500/year license fee has probably been a deterrent to some. 109 firms are listed in a national directory; over 60 of them set up trade exhibits in Las Vegas for the purpose of finding new distributors. Although our sparse and non-urban population would make Montana less interesting to importers, the annual license fee is a factor as well. A Japanese importer in San Francisco sent me a tabulation of licensing requirements in the fifty states; copies are attached to my testimony. Many states have no fee, such as Wyoming, Idaho, and the Dakotas; most others have much lower fees, such as the \$50/year in Oregon and Washington.

The fee is also disproportionate to that paid by wine importers and wineries -- \$25 a year. With a lower fee we would surely see more importers offering their beers in Montana. I would suggest to the committee that licensing of 30 import firms could be expected at a fee level of \$200 a year. This would generate revenue of \$6,000 annually, while the Department would take in \$6,500 under existing law from the 13 firms now licensed.

I would also note some technical problems in the bill. The definitions of warehouse and subwarehouse on page 4 are not described in the title; this material is also in Senator Norman's SB35 which has been introduced for the purpose of providing those definitions. The bill before you today does lack a definition it should have, a definition of beer importer. The bill defines the verb to import but does not go on to define an importer of beer vis-a-vis a brewer of beer. The amendments attached to my testimony clarify this situation by redefining importing as bringing in from outside the nation and defining an importer as someone other than a brewer.

DATED: January 8, 1985.

BY:


ROGER TIPPY

BUSINESS AND LABOR

COMMITTEE

Date January 8, 1985

[illegible]

Form CS-33
1-81

CHAIRMAN--TOWE, TOM
NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: M-TU-W-TH-F

TIME: 8:00-10:00 A.M.

SECRETARY--AAGENES, NANCY

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0002	2/07	2/18	3/18	CONCUR		3/18
SANDS, JACK			USE COAL SEVERANCE TAX FOR OPERATION AND MAINTENANCE OF STATE PARKS			
HB0026	2/07	3/07	3/19	CONCUR AS AMENDED		3/19
SWITZER, L. DEAN			ALLOWING PROPERTY TAX BENEFITS FOR RECONSTRUCTION OR EXPANSION OF BUILDINGS			
HB0027	1/26	2/09	2/11	CONCUR		2/11
WILLIAMS, J. MELVIN (MEL)			WITHHOLDING TAX; PRIORITY DATE FOR WARRANT FOR DISTRRAINT			
HB0028	1/19	1/29		CONCUR		1/29
WILLIAMS, J. MELVIN (MEL)			CHANGING DEFINITION OF WINE			
HB0030	1/25	2/09		CONCUR		2/9
WILLIAMS, J. MELVIN (MEL)			TAX PROTESTERS SHOW CAUSE HEARING			
HB0031	1/18	1/29		CONCUR		1/29
WILLIAMS, J. MELVIN (MEL)			ELIMINATING PROVISIONS FOR KEEPING A "DUPLICATE ASSESSMENT BOOK"			
HB0032	1/15	1/29		CONCUR		1/29
KEENAN, NANCY			BEER IMPORTER LICENSE			
HB0034	1/28	2/08		CONCUR		2/8
KEENAN, NANCY			STANDARD DEDUCTION FOR JOINT RETURNS TO BE TWICE THE AMOUNT FOR SINGLE			
HB0042	1/15	1/29		CONCUR		1/29
MANUEL, REX			GENERALLY REVISE LAWS ON TAX AND ALCOHOL			
HB0045	4/15	4/17		CONCUR		4/17
WALDRON, STEVE			INCREASE THE CIGARETTE EXCISE TAX TO 24 CENTS PER PACKAGE			
HB0054	2/22	3/08	3/20	TABLED		3/20
MARKS, ROBERT L. (BOB)			ELIMINATE ASSIGNMENT OF COUNTY INTEREST IN PROPERTY ACQUIRED AT TAX SALE			

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or corporation for a shareholder unless these provisions were to apply. Without this language there would be no definition to allow that to occur.

OPPONENTS

None were heard.

Questions from the committee were called for.

Senator Hager asked for more clarification on the added language.

Senator McCallum asked to have page 15, paragraph one explained. Senator Towe said that it simply differentiated between whether the tax would be levied and whether the state has the jurisdiction to levy the tax.

Representative Manuel closed without comment.

CONSIDERATION OF HB 32: Representative Nancy Keenan, House District 66, chief sponsor of the bill, explained that there is a void in the Montana Alcoholic Beverage Code that doesn't include licensing them as brewers. This bill would treat them in the same manner as brewers.

PROPONENTS

Mr. Howard Hefflefinger said that in the absence of any specific language the category of brewer had been used. He pointed out that there are some discrepancies in the fee schedules, but that the Department isn't seeking to address that with this bill.

Roger Tippy of the Beer and Wine Wholesalers Association said that the Importers Association in Washington, D.C., had no interest in the bill. He noted for the record that wine importers pay only \$25 for their licenses and that beer importers would be paying \$500. He felt a somewhat lower fee, perhaps \$200, would bring more variety in the imported beer market. He acknowledged that the House committee had rejected that as competition for Montana's own small breweries.

He also wanted it understood that only one license need apply, and that it be specifically understood that an importer is other than a brewer.

OPPONENTS

None were heard.

Questions from the committee were called for.

Senator Towe asked if a wholesaler could also be an importer. Mr. Tippy explained that most importers are based on the coasts or in

January 29, 1985

large cities importing product from Canada or Mexico. Mr. Hefflefinger added that any product coming to the state from out of the country must come from someone holding a federal importer's license. He said the Department's intention is to license the last entity getting the malt beverage into the state. He saw no reason why a wholesaler couldn't do this.

Senator Eck asked for clarification of the definition of importer and wondered if it referred to import into the state, or import into the country. Mr. Hefflefinger answered that they sought a definition as broad as possible. He said the purpose was to enhance selection in the state and the Department would have the legal discretion to look at the intent.

Senator Hager asked if grocery chains could distribute beer. Mr. Hefflefinger said there is a case pending on that issue now. He said wholesalers frown on the idea, and added that once in the past it was allowed for beer to pass from a wholesaler to a grocery warehouse. Mr. Tippy discussed the "come to rest" statute which means that beer must come to rest in a state licensed warehouse where it can be accounted for according to state law. He said that importers would be under that same kind of restriction whereas grocery warehouses would not.

Senator Neuman asked now this interfaced with a bill passed out of committee previously on defining a subwarehouse. Mr. Hefflefinger said that some language intended for that bill had been amended into this one inadvertantly so it was proper that the House had taken it back out.

Senator Neuman inquired about two different effective dates on the bill. It was explained that one was effective for allowing rule making and hearings, while the other was effective for the law itself.

Senator Towe asked why Section 8 had been stricken? Mr. Tippy said that the language referred to those who manufacture beer in the state and there is no need to amend it regarding importers.

Senator Keenan closed on SB 32 without further comment.

FURTHER CONSIDERATION OF SB 106: Chairman Towe recognized Rick Bartos of the Office of Public Instruction. Mr. Bartos explained the bill to the committee and presented an Attorney General's opinion (Exhibit 1) that explained the necessity for the change proposed by this legislation,

Senator Towe asked what the opinion of OPI was on the bill and Mr. Bartos said that office supported the bill.

Senator Eck asked if adequate instructions would be given to the county superintendents of schools. Mr. Bartos responded that they issue workbook instructions to those people at the conclusion of each session.

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date January 29, 1985

Location -- Room 413-415

Name	Present	Absent	Excused
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Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek			✓
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

STANDING COMMITTEE REPORT

January 29, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 32

third reading copy (blue)
Senator Lynch color

BEER IMPORTER LICENSE

Respectfully report as follows: That House Bill No. 32

HE CONCURRED IN

~~ADDRESS~~

~~ADDRESS~~

Thomas E. Towe,

Chairman.